

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VETERAN MEDICAL PRODUCTS, INC., *et al.*,

Plaintiffs,

v.

Case No. 1:05-cv-655

Hon. Hugh W. Brenneman, Jr.

BIONIX DEVELOPMENT CORPORATION,
et al.,

Defendants.

ORDER

In accordance with the Opinion filed this date,

IT IS ORDERED that defendants' "Rule 50(b) Motion for Judgment as a Matter of Law" (docket no. 122) is **GRANTED** in part. The court will set aside those portions, and only those portions, of the jury verdict dated April 18, 2008:

1. Finding that defendants are liable for violation of "Unfair Competition - Federal Law" as to any plaintiff (¶'s 1-10);
2. Finding that defendants are liable for violation of "Unfair Competition - State Law" with respect to plaintiffs Tillman Industries, Inc., Joseph Szyperski, Patrick Eddy and Ryan Heidenfeld (¶'s 12-15 and 17-20); and,
3. Awarding damages from either defendant to any plaintiff including the two damage awards to Veteran Medical Products, Inc.

IT IS FURTHER ORDERED that plaintiffs' "Motion for Finding of Exceptional Case" (docket no. 119) is **GRANTED**, the court finding this is an exceptional case under 35 U.S.C. § 285 entitling plaintiffs to reasonable attorneys fees incurred in defending the counterclaim for

infringement of the '669 patent. In the event the parties cannot agree on the appropriate amount of attorney fees within 14 days of the entry of this order, plaintiffs shall submit an affidavit with any supporting documents justifying their claim for attorney fees within 21 days of the entry of this order. Defendants may respond in kind within 7 days after plaintiffs' filing. The court will decide the amount on the papers, but reserves the possibility of holding a hearing on the amount sought.

IT IS SO ORDERED.

Dated: March 31, 2009

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge